



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**JOHN BEN SHEPPERD  
ATTORNEY GENERAL**

March 3, 1953

Hon. H. A. Beckwith, Chairman  
Board of Water Engineers  
Austin, Texas

Letter Opinion No. MS-05

Re: Creation of "Canadian  
River Water Control and  
Improvement District,"  
embracing the corporate  
limits of some twelve non-  
contiguous municipalities.

Dear Sir:

Your request for an opinion of this office relates to a pending application before the Board seeking the creation of a water control and improvement district to be known as "Canadian River Water Control and Improvement District." The proposed district will embrace the corporate limits of twelve noncontiguous municipalities.

You have presented for determination the following questions:

1. Will creation under general law of a water control and improvement district to build the Canadian River Project conflict with the Special Legislative Act creating the Panhandle Water Conservation Authority?
2. If there is no conflict, then does Article 7880-11 require a metes and bounds, or map, description of each noncontiguous area to be included in the water control and improvement district?

Section 59, Article XVI, of the Constitution of Texas authorizes the creation of water control and improvement districts. Subsection (b) provides:

"There may be created within the State of Texas, or the State may be divided into, such number of conservation and reclamation districts as may be determined to be essential to the accomplishment of the purposes of this amendment to the Constitution, which districts shall be governmental agencies and bodies politic and corporate with such powers of government and with the authority to exercise such rights, privileges and functions concerning the subject matter of this amendment as may be conferred by law."

Article 7880-4, Vernon's Civil Statutes, provides:

"Such districts may include the area of any county or counties, or any portion thereof, including towns, villages, or municipal corporations. Such districts may include any county and number of counties, or any political subdivision of the State, and defined district or parts of any or all counties in the State of Texas; and the land composing said districts need not be in one body, but may consist of separate bodies of land separated by land not embraced in the district; provided, however, that each segregated area must cast a majority vote in favor of the creation of the district before such segregated area can be included in the district.

"Provided that no district provided for in this Act shall embrace territory situated in more than one county except by a majority vote of the property tax paying voters residing within the territory in each county sought to be embraced within said district."

The Panhandle Water Conservation Authority was created by Acts 45th Legislature, R.S.1937, ch.256,

of Article XVI, Section 59, for the purpose of controlling, storing, preserving, and distributing the waters of the Red, Canadian, and Brazos Rivers, and their tributaries for domestic, municipal, flood control, irrigation power, and other useful purposes.

It is our understanding that the proposed Canadian River Water Control and Improvement District will constitute a body politic for the purpose of providing water for municipal and domestic purposes.

We find nothing in the above law creating the Panhandle Water Conservation Authority conflicting with, or showing an intention to repeal, the operation of the general laws in the territory included within the Authority. Nor do we find any other statutory provision or any constitutional provision prohibiting the creation of the proposed Canadian River Water Control and Improvement District within the area comprising the Panhandle Water Conservation Authority.

In analogous situations independent districts have been included within existing authorities, such as the Lower Colorado River Authority and the Brazos River Conservation and Reclamation District, pursuant to the provisions of Article XVI, Section 59.


However, pursuant to Article 7880-11, V.C.S., the State Board of Water Engineers may consider the fact that the Panhandle Water Conservation Authority is already in existence and may inquire into the necessity, feasibility, and purposes of this proposed district. Moreover, Article 7880-21, V.C.S., provides that if on a hearing before the State Board of Water Engineers the Board should find that the proposed district is not feasible, would not be a public benefit, or would not be a benefit to the land to be included in the area, then the Board shall refuse such petition.

In regard to your second question, Article 7880-11, V.C.S., provides that the petition for a water control and improvement district "shall designate the name of the district, the area and boundaries thereof," etc. There is nothing in this or any other pertinent article requiring a metes and bounds description of the

proposed district. Such a description would be preferable but not mandatory, in our opinion, and any description identifying the noncontiguous areas with reasonable certainty and definiteness satisfies the provisions of the statute. See Zavala-Dimmit Counties Water Improvement Dist. No. 1 v. Duncan, 127 S.W.2d 362, 363 (Tex.Civ.App.1939, error ref.).

Yours very truly,

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By   
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BW:bt